

## *The Public Service Commission State of South Carolina*

Charles L.A. Terreni  
Chief Clerk/Administrator  
Phone: (803) 896-5133  
Fax: (803) 896-5246

179329

COMMISSIONERS  
Randy Mitchell, Third District  
*Chairman*  
G. O'Neal Hamilton, Fifth District  
*Vice Chairman*  
John E. "Butch" Howard, First District  
David A. Wright, Second District  
Elizabeth B. "Lib" Fleming, Fourth District  
Mignon L. Clyburn, Sixth District  
C. Robert Moseley, At-Large

May 3, 2006

Mrs. Beatrice Weaver  
1253 Harlees Bridge Road  
Dillon, South Carolina 29536

RE: Docket No. 2004-219-E

Dear Mrs. Weaver:

Enclosed please find the answers to the questions, which you raised in your letter dated April 24, 2006:

**1. Copy of the public notice, if any, of the Commission's March 29, 2006 Meeting.**

The public notice of the Commission's meeting of March 29, 2006 was included in the Commission's agenda of March 24, 2006 (a copy is attached).

**2. Copy of the Agenda of said March 29<sup>th</sup>, 2006 Meeting.**

The Agenda of the Commission's meeting of March 29, 2006 is attached.

**3. Copy of section of any transcript of the meeting, recording the discussion of my case.**

A copy of the transcript of the March 29<sup>th</sup> meeting can be provided at a cost of \$3.00 per page.

**4. Is there a tape recording of said discussion available?**

A copy of the tape recording of the meeting is enclosed.

**5. Copy of any record of an order or directive of the Commission to Petitioner Progress Energy, instructing it to submit a Proposed Order following the issuing of the Commission's Directive dated April 4<sup>th</sup>, 2006.**

The Commission did not order Progress Energy, Inc. to file a proposed order, but parties are free to file proposed orders if they desire to do so.

6. **Copy of any and all ex parte communications (correspondence, memoranda, phone records, e.mail, telefaxes, etc) by and between any of the Commissioners, the Commission Staff and the Petitioner or any of its staff or its representatives or agents, that occurred during the months of February, March and April, 2006.**

Copies of all communications regarding your case between the Commission Staff and the Petitioner during February, March and April are attached. There are no such communications involving members of the Commission.

7. **Copy of the record showing whether or not Petitioner's agents and ORS staff were present and participated at the March 29<sup>th</sup>, 2006 meeting of the Commission.**

There is no record of the presence of Progress Energy's agents or the Office of Regulatory Staff's agents at the Commission's March 29, 2006 meeting, as the Commission does not record who attends its public meetings.

Enclosed please find the answers to the questions, which you raised in your letter that was received on April 25, 2006, but was not dated:

1. **Letter from Mr. Len Anthony of Progress Energy to the Commission, dated on or about March 27, 2006. Said letter requests deferral of Commission action on my Motion to Continue dated March 10, 2006, at the March 29, 2006 meeting.**

A certified true copy of the requested document is attached.

2. **Mr. Anthony's Motion to Close Docket dated March 30, 2006 in N.C.**

A certified true copy of the requested document is attached.

3. **Letter from Ms. Hudson of the O.R.S. dated March 31, to the Commission referring to the said motion.**

A certified true copy of the requested document is attached.

Also enclosed please find the answers to the questions, which you raised in your letter dated April 17, 2006:

1. **Would you please be so kind and inform me if the Commission held a meeting or Hearing on April 13, 2006.**

The Commission did not hold a meeting or hearing on April 13, 2006 regarding Docket No. 2004-219-E.

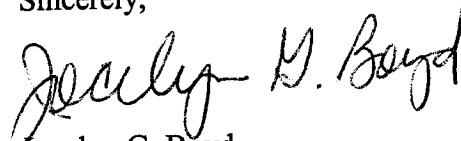
2. **If so, please name the Commissioners who attended, and provide me with a copy of the agenda.**

Not applicable.

3. **And transcript of the part of the meeting including discussion of my case arriving at the decision to "dismiss" rather than "continue".**

A copy of the transcript can be provided at a cost of \$3.00 per page.

Sincerely,

A handwritten signature in black ink, appearing to read "Jocelyn G. Boyd". The signature is fluid and cursive, with the first name "Jocelyn" being more prominent.

Jocelyn G. Boyd  
Deputy Clerk

cc: All Parties of Record



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C. Robert Moseley, At-Large

Docketing Department  
Phone: (803) 896-5100  
Fax: (803) 896-5199

3/24/06 @ 12:00PM/js

### DOCKETING DEPARTMENT AGENDA

#### UTILITIES MATTERS

Week of March 27, 2006

The Commission's regularly scheduled meeting will be held each Tuesday in the Commission's hearing room at 2:30 p.m. or as soon thereafter as any hearing which may be set on the morning thereof is concluded. Information concerning the date, time and place of any special, rescheduled or called meeting will be posted on the Commission's bulletin board at its offices, 101 Executive Center Drive, Columbia, South Carolina, and on the Commission's internet website, as early as is practicable but not later than twenty-four hours before the meeting.

#### COMMISSION ACTION ON THE FOLLOWING ITEMS:

##### TARIFFS – ITEMS 1 – 2

1. Tariff No. 2006-78- Qwest Communications Corporation, in its SCPSC Tariff No. 1 filed a revision to introduce the Qwest 10¢ Domestic Plan for International for residential customers. RETURN DATE HAS EXPIRED
2. Tariff No. 2006-81- UCN, INC., in its SC PSC Tariff No. 1 filed revisions to introduce the In-State Connection Fee (ISCF) and In-State Cost Recovery Charge (ISCRC). RETURN DATE HAS EXPIRED

##### INTERCONNECTION/RESALE AGREEMENTS – ITEM 3

3. DOCKET NO. 2005-188-C – Request for approval of an Interconnection Agreement that has been negotiated between Horry Telephone Cooperative, Inc. and MCI Access Services, LLC pursuant to Sections 251 and 252 of the Telecommunications Act of 1996. The agreement is effective March 14, 2006 and it expires March 13, 2008. MCI Access Services LLC was certified to provide local exchange services under DN 1007-115-C.

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4. DOCKET NO. 2005-253-C - Application Requesting the Approval of the Name Modification of MCI Communications Services, Incorporated by Adding d/b/a Verizon Business Services  
- AND-  
DOCKET NO. 97-115-C - Application of MCImetro Transmission Services, LLC for a Certificate of Public Convenience and Necessity to Provide Local Telecommunications Services - Discuss with the Commission Requests for Name Modifications of MCI Communications Services, Incorporated by adding d/b/a Verizon Business Services and MCImetro Access Transmission Services, LLC by adding d/b/a Verizon Access Transmission Services - The Return Date Has Expired with No Intervention – The Office of Regulatory Staff does not oppose these amendments.
5. DOCKET NO. 1985-150-C – Request of Payphone Service Provide (PSP) for Certification to Operate in the State of South Carolina – Discuss with the Commission an Application for Certificate: Empire Payphones, Incorporated, % Susan Duggan-Regulatory Administrator, 1490 Westford Drive, Suite G, Lithia Springs, Georgia 30122.
6. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of South Carolina – Discuss with the Commission a Request to Cancel Certificate (Order) No. 2005-456 granted to Los Garcia LLC.
7. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of South Carolina – Discuss with the Commission a Request to Cancel Certificate (Order) No. 1989-0404 granted to Jay Schwartz d/b/a Cover Mfg. Company.

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8. DOCKET NO. 2003-275-C – Freedom Telecom, Incorporated – Application for a Certificate of Public Convenience and Necessity to Provide Resold Local Exchange and Interexchange Telecommunications Services, for Flexible Rate Structure for Local Exchange Service Offerings and for Alternative Regulation – Discuss with the Commission a Request to Cancel Certificate.
  
9. DOCKET NO. 2005-342-C – Application of Comtel Telcom Assets LP d/b/a VarTec Telecom, Clear Choice Communications, Excel Telecommunications and VarTec Solutions for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services, for Flexible Regulatory Treatment, Alternative Regulation, and for Approval to Acquire Certain Assets of VarTec Telecom, Incorporated, Excel Telecommunications, Incorporated and VarTec Solutions, Incorporated – Discuss with the Commission a Request for Extension until April 7, 2006 to File Revised Tariffs and the Authorized Utility Representative Information Form.
  
10. DOCKET NO. 1997-302-C – Adelphia Telecommunications, Incorporated - Application for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Interexchange Telecommunications Services Within the State of South Carolina – Discuss with the Commission a Request to Cancel Certificates and Tariffs Relating to Long Distance Services of Adelphia Telecommunications, Incorporated.
  
11. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates for Fuel Costs – Discuss with the Commission a Motion to Compel Discovery Responses from South Carolina Electric & Gas Company Filed by E. Wade Mullins, III, Esquire, on Behalf of CMC Steel South Carolina.

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12. DOCKET NO. 2004-219-E – Progress Energy Carolinas, Incorporated – Petition to Terminate Service –  
Discuss with the Commission Receipt of a Motion to Continue Hearing and for an Extension of Time  
for Filing of Pleadings Filed by Beatrice Weaver.
  
13. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates  
for Fuel Costs – Discuss with the Commission a Request for Confidential Treatment of Rebuttal  
Testimony of Gerhard Haimberger Filed by Belton T. Zeigler, Esquire.
  
14. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates  
for Fuel Costs – Discuss with the Commission a Request for Confidential Treatment of Testimony of  
Dennis W. Goins Filed by E. Wade Mullins, III, Esquire, on Behalf of CMC Steel South Carolina.
  
15. DOCKET NO. 2005-354-A - Revisions to Article 8 of the Commission's Regulations – Discuss with the  
Commission Staff's Petition for Reconsideration to Conform Regulation to Existing Statutes.

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1. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of Direct Testimony and Exhibits of Randy Watts and Jackie Cherry Filed on Behalf of the Office of Regulatory Staff.*
2. DOCKET NO. 97-239-C – Universal Service Fund 2003 (USF) – Advise the Commission of Receipt of an Exact Duplicate, with the Exception of the Form of the Signature of the E-filed Copy Submitted to the Commission Filed by Nanette S. Edwards, Esquire, on Behalf of the Office of Regulatory Staff.
3. DOCKET NO. 2006-18-C – Application of Aero Communications, LLC for a Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services Throughout South Carolina, for Modified Alternate Regulation for Interexchange Business Services and for Flexible Rate Structure for Local Exchange Service Offerings – *Advise the Commission of Receipt of a Stipulation Between the Coalition and the Applicant Filed by Margaret M. Fox, Esquire.*
4. DOCKET NO. 2006-42-C – Application of FRC, LLC for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services as a Carrier's Carrier – *Advise the Commission of Receipt of Verified Testimony of Terry R. Metze, Jr. Filed on Behalf of Sue-Ann Gerald Shannon.*
5. DOCKET NO. 2006-76-C – Home Telephone Company, Incorporated – Application for Alternative Regulation Plan Pursuant to S.C. Code Ann. Section 58-9-576 – *Advise the Commission of Receipt of a Notice of Appearance of Counsel Filed by Benjamin P. Mustian, Esquire, on Behalf of the Office of Regulatory Staff.*
6. DOCKET NO. 2006-1-E – Carolina Power and Light Company d/b/a Progress Energy Carolinas, Incorporated – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of Progress Energy Carolinas' Supplemental Response No. 1 to Item No. 1-1 of the Office of Regulatory Staff's First Request Filed by Len S. Anthony.*
7. DOCKET NO. 2005-365-C - Application of Telmex USA, LLC for a Certificate of Public Convenience and Necessity for Authority to Provide Intrastate Telecommunication Services within the State of South Carolina and Request for Alternative Regulations for Its Business Service Offerings and All Calling Card Service Offerings within the State of South Carolina - *Advise the Commission of Receipt of a Request that the Hearing Scheduled for Monday, March 27, 2006 be continued and postponed for thirty days Filed by Bonnie D. Shealy, Esquire, on Behalf of Telmex, USA, LLC.*
8. *Advise the Commission of Receipt of Piedmont Natural Gas's Quarterly Commission Report For the Quarter Ended December 31, 2005.*



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9. DOCKET NO. 2005-5-G – South Carolina Electric and Gas Company - Annual Review of Purchased Gas Adjustment and Gas Purchasing Policies – *Advise the Commission of Receipt of a Letter Regarding the Eighth Billing Cycle of March 2006 and the Cost of Gas Factor Filed on Behalf of South Carolina Electric and Gas Company.*
10. DOCKET NO. 2006-1-E – Carolina Power and Light Company d/b/a Progress Energy Carolinas, Incorporated – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of Progress Energy Carolinas' Initial Response to the South Carolina Energy Users Committee's First Set of Interrogatories and First Set of Request to Produce Filed by Len S. Anthony.*
11. DOCKET NO. 2005-238-C – Application of Sprint Long Distance, Incorporated for a Certificate of Public Convenience and Necessity to Provide Intrastate Resold Telecommunications Services, for Alternative Regulation, and for Waiver of Certain Commission Rules – *Advise the Commission of Receipt of a Replacement Tariff Filing for Sprint Long Distance, Incorporated Reflecting the Amended Name Embarq Communications, Incorporated.*
12. DOCKET NO. 2004-316-C – Petition of BellSouth Telecommunications, Incorporated to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law – *Advise the Commission of Receipt of a Petition for Clarification Filed by Patrick W. Turner, Esquire, on Behalf of BellSouth Telecommunications, Incorporated.*
13. DOCKET NO. 2006-84-E – Duke Power – Application for Approval to Implement Four Electric Service Agreement Amendment and Assignment Forms for Use with Its Non-residential Customers – *Advise the Commission of Receipt of an Application for Approval to Implement Electric Service Agreement Amendment and Assignment Forms for use with its Non-residential Customers.*
14. DOCKET NO. 2003-273-E – Aiken Electric Cooperative, Incorporated, Complainant, v. South Carolina Electric and Gas Company, Respondent (Territorial Assignment Dispute Involving Service to the Hunter Kinard Tyler School Located in Orangeburg County, South Carolina) – *Advise the Commission of Receipt of a Consent Order Filed by Mitchell Willoughby, Esquire and Marc A. Manos, Esquire on Behalf of South Carolina Electric and Gas Company and Aiken Electric Cooperative, Incorporated.*
15. DOCKET NO. 2006-1-E – Carolina Power and Light Company d/b/a Progress Energy Carolinas, Incorporated – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Certification that a copy of the Notice was provided to all Retail Customers and Proof of Publication that the Notice was published in The Cheraw Chronicle, The State in Richland County, The News and Press in Darlington County, The Dillon Herald in Dillon County, The News Journal in Florence County, The Kingstree News in Williamsburg County, The Messenger in Darlington County, The Marion Star and Mullins Enterprise in Marion County, The Pageland Progressive-Journal in Chesterfield County and The Item in Sumter County.*

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16. DOCKET NO. 2003-312-S – Towne Homes on Keowee Homeowner's Association – Application for Exemption from Regulation of the Provision of Sanitary Sewer Transportation Service – *Advise the Commission of a Request for Name Change Filed by the Applicant.*
17. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of Response to SMI Steel's Fifth Set of Interrogatories Filed by Belton T. Zeigler, Esquire, on Behalf of South Carolina Electric & Gas Company.*
18. DOCKET NO. 2000-369-W – GNATO'S ACRES – Request to Abandon Well in York County, South Carolina – *Advise the Commission of Receipt of a Letter Filed by Jocelyn G. Boyd Addressed to Fletcher Waden Regarding His Request that the Commission Return the Bond.*
19. DOCKET NO. 2005-57-C - Joint Petition for Arbitration on Behalf of NewSouth Communications, Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III, LLC and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, As Amended - *Advise the Commission of Receipt of a Motion in Support of Pro Hac Vice Application of Kenneth L. Millwood Filed by James C. Gray, Jr.*
20. *Advise the Commission that the Commission's Energy Advisor has reviewed a number of draft NERC standards actions, with the following recommended dispositions:*

**Due March 30, 2006**

- Determine Facility Ratings, Operating Limits, and Transfer Capabilities:
- FAC-010-1 – System Operating Limits Methodology: Recommend an affirmative vote with no comments.
- FAC-011-1 – Establish and Communicate System Operating Limits: Recommend an affirmative vote with no comments.
  - Resource Adequacy Assessments Standard Authorization Request (SAR): Reviewed SAR with no comments.
  - Phase III/IV Planning Standards – EOP-005, MOD-013, MOD-016: Recommend an affirmative vote with no comments.
  - URGENT ACTION: SPP Regional Difference – BAL-006-1 – Inadvertent Interchange: Reviewed draft standard with no comments.
  - URGENT ACTION: SPP Regional Difference – IRO-006-2 – Reliability Coordination – Transmission Loading Relief: Reviewed draft standard with no comments.

**Due April 3, 2006**

- Revisions to IRO-004-1 – Reliability Coordination – Operations Planning: Reviewed draft standard with no comments.
- Revisions to IRO-006-3 – Reliability Coordination – Transmission Loading Relief: Reviewed draft standard with no comments.

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21. DOCKET NO. 2006-85-C – Application of YMax Communications Corporation for a Certificate of Public Convenience and Necessity to Provide Facilities Based Local Exchange, Resold Long Distance Telecommunications Services, Access Services and for Flexible Regulation of Its Local Exchange Services and Alternative Regulation of Its Long Distance Service Offerings - Advise the Commission of Receipt of an Application for a Certificate of Public Convenience and Necessity Filed by Bonnie D. Shealy, Esquire, on Behalf of the Applicant.
22. PROMOTION: Rock Hill Telephone Company d/b/a Comporium Communications, filed a letter to advise the Commission of its intention to conduct a promotional offer for Caller ID – Name and Number Delivery. This promotion will begin on April 1, 2006 and end on December 31, 2006.
23. PROMOTION: Fort Mill Telephone Company d/b/a Comporium Communications, filed a letter to advise the Commission of its intention to conduct a promotional offer for Caller ID – Name and Number Delivery. This promotion will begin on April 1, 2006 and end on December 31, 2006.
24. PROMOTION: Lancaster Telephone Company d/b/a Comporium Communications, filed a letter to advise the Commission of its intention to conduct a promotional offer for Caller ID – Name and Number Delivery. This promotion will begin on April 1, 2006 and end on December 31, 2006.
25. PROMOTION: United Telephone Company of the Carolinas filed a letter to advise the Commission of its intention to offer the Dedicated IP Bundle Promotion. This promotion will begin on March 20, 2006 and will end on June 17, 2006.
26. PROMOTION: Charter Fibrlink SC-CCO, LLC filed a letter to advise the Commission of its intention to offer the Long Distance Unlimited Minutes Package at a discounted monthly rate of \$29.99 for customers who subscribed to two affiliate services for a period of twelve consecutive months. This promotion will begin on March 17, 2006 and end on September 30, 2006.
27. DOCKET NO. 2005-2-E – South Carolina Electric & Gas Company – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of a Copy of the Redacted Fuel Study for Public Disclosure Filed by Shannon Bowyer Hudson, Esquire, on Behalf of the Office of Regulatory Staff.*
28. DOCKET NO. 2006-55-C - Application of IPC Network Service, Incorporated for a Certificate of Public Convenience and Necessity to Provide Resold Local Exchange and Resold Long Distance Telecommunications Services and for Flexible Regulation of Its Local Exchange Services and Alternative Regulation of Its Long Distance Offerings – Advise the Commission of Receipt of an Executed Stipulation between the Coalition and the Applicant Filed by Margaret M. Fox, Esquire.
29. DOCKET NO. 2005-188-C - Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Horry Telephone Cooperative, Incorporated Concerning Interconnection and Resale under the Telecommunications Act of 1996 – Advise the Commission of Receipt of an Interconnection Agreement between Horry Telephone Cooperative, Incorporated and MCI Access Transmission Services, LLC Filed by Margaret M. Fox, Esquire.

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30. DOCKET NO. 2006-2-E – South Carolina Electric and Gas Company – Annual Review of Base Rates for Fuel Costs - *Advise the Commission of Receipt of South Carolina Electric and Gas Company's Response to South Carolina Energy Users Committee's Second Set of Interrogatories Filed by Belton T. Zeigler, Esquire.*
31. DOCKET NO. 2005-57-C - Joint Petition for Arbitration on Behalf of NewSouth Communications, Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III, LLC and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, As Amended - *Advise the Commission of Receipt of a Final Proposed Solution Filed by Patrick W. Turner, Esquire, on Behalf of BellSouth Telecommunications, Incorporated.*
32. *Advise the Commission of Receipt of an Interconnection Agreement Between Comcast Phone, LLC and Cellco Partnership d/b/a Verizon Wireless Filed by Erin Weber Emmott.*
33. DOCKET NO. 97-239-C – Universal Service Fund 2003 (USF) – *Advise the Commission of Receipt of a Notice of Appearance Filed by Loris Reese Patton on Behalf of Sprint Communications Company, L.P.*
34. DOCKET NO. 2001-359-C - Application of Momentum Telecom, Incorporated (f/k/a Momentum Business Solutions Incorporated) for a Certificate of Publication and Convenience and Necessity to Provide Intrastate Interexchange, Local Exchange and Exchange Access Telecommunications Services and for Alternative and Flexible Regulation– *Advise the Commission of Receipt of a Notice of Appearance of Counsel Filed by Jeffrey M. Nelson, Esquire, on Behalf of the Office of Regulatory Staff.*
35. DOCKET NO. 2005-276-C – Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Incorporated Concerning Interconnection and Resale Under the Telecommunications Act of 1996 - *Advise the Commission of Receipt of Notice of Appearance of Counsel Filed by Shannon Bowyer Hudson, Esquire, on Behalf of the Office of Regulatory Staff.*
36. DOCKET NO. 2006-84-E – Duke Power – *Application for Approval to Implement Four Electric Service Agreement Amendment and Assignment Forms for Use with Its Non-residential Customers – Advise the Commission of Receipt of a Notice of Appearance of Counsel Filed by C. Lessie Hammonds, Esquire, on Behalf of the Office of Regulatory Staff.*
37. DOCKET NO. 85-150-C – Request of Payphone Service Provider (PSP) for Certification to Operate in the State of South Carolina – *Advise the Commission of Receipt of a Request to Cancel Certificate (Order) No. 1996-750 granted to Kenneth M. Saab, Post Office Box 41693, Charleston, South Carolina 29423-1693(District 6)*

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38. DOCKET NO. 2005-57-C - Joint Petition for Arbitration on Behalf of NewSouth Communications, Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III, LLC and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, As Amended - *Advise the Commission of Receipt of a Verified Application for Admission Pro Hac Vice of Kenneth L. Millwood Filed by James C. Gray, Jr., Esquire.*
39. *Advise the Commission of Receipt of a Financial Statement Filed by William Bartlett on Behalf of SD Utilities, LLC.*
40. DOCKET NO. 2006-89-G – Application of Piedmont Natural Gas Company, Incorporated to Modify Tariffs and Service Regulations - *Advise the Commission of Receipt of an Application to Modify Tariffs and Service Regulations Filed by Scott M. Tyler, Esquire, on Behalf of the Applicant.*
41. DOCKET NO. 2006-70-C – Application of LMDS Holdings, Incorporated for a Certificate of Public Convenience and Necessity to Provide Competitive Local Exchange and Interexchange Telecommunications in the State of South Carolina and for Alternative Regulation and for Flexible Regulations - *Advise the Commission of Receipt of Affidavits of Publication from The Greenville News and The State-Record Company, Inc. Filed on Behalf of the Applicant.*
42. DOCKET NO. 2006-69-C – Application of Trinsic Communications, Incorporated and Access Integrated Networks, Incorporated for Authority to Transfer Assets to Access Integrated Networks, Incorporated - *Advise the Commission of Receipt of Proof of Publication from The State Newspaper Filed on Behalf of the Applicant*
43. DOCKET NO. 2005-110-WS – Petition of Office of Regulatory Staff to Request Forfeiture of the Piney Grove Utilities, Incorporated’s Bond and to Request Authority to Petition the Circuit Court for Appointment of a Receiver – *Advise the Commission of Receipt of a Petition for Rehearing and/or Reconsideration of Certain Matters Addressed in Order No. 2006-59 Issued on February 24, 2006 Filed by Benjamin Mustian, Esquire, on Behalf of the Office of Regulatory Staff.*
44. DOCKET NO. 2005-57-C - Joint Petition for Arbitration on Behalf of NewSouth Communications, Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III, LLC and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, As Amended - *Advise the Commission of Receipt of a letter from The Supreme Court of South Carolina certifying it has received a Verified Application for Kenneth L. Millwood to be Admitted Pro Hac Vice and the \$250.00 Filing Fee has been paid.*

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45. DOCKET NO. 2005-110-WS – Petition of Office of Regulatory Staff to Request Forfeiture of the Piney Grove Utilities, Incorporated's Bond and to Request Authority to Petition the Circuit Court for Appointment of a Receiver – *Advise the Commission of Receipt of a Memorandum from David Butler, Senior Counsel Regarding a Petition for Rehearing and/or Reconsideration of Certain Matters Addressed in Order No. 2006-59 Issued on February 24, 2006 Filed by Benjamin Mustian, Esquire, on Behalf of the Office of Regulatory Staff. The Commission has until Friday, April 21, 2006 to Rule on the Petition.*

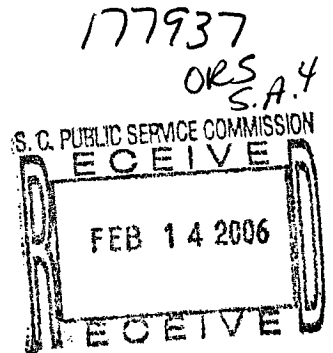
DOCKETING DEPARTMENT AGENDA  
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WEEK OF MARCH 27, 2006

1. DOCKET NO. 2005-191-E – Generic Proceeding to Explore a Formal Request for Proposal Process for Utilities that are Considering Alternatives for Adding Generating Capacity – A Hearing was held on October 26, 2005.
2. DOCKET NO. 2005-304-W – Petition of Suburban Water Company to Abandon Public Water System Number 3250011, Suburban Water System, Also Known as Blacksgate Bundrick Subdivision
3. DOCKET NO. 2005-154-E – Coastal Electric Cooperative, Incorporated (Complainant) v. South Carolina Electric and Gas Company (Respondent)
4. DOCKET NO. 2003-254-E – South Carolina Electric & Gas Company, Complainant, v. Aiken Electric Cooperative, Incorporated, Respondent – Oral Arguments were held on January 25, 2006.
5. DOCKET NO. 2005-241-C – Rock Hill Telephone Company, Lancaster Telephone Company and Fort Mill Telephone Company, All d/b/a Comporium Communications - Request for Extended Area Service in York County

Copies to: All Commissioners  
Charles L.A. Terreni, Chief Clerk/Administrator  
Joseph Melchers, Chief Counsel  
\* Legal  
\* Advisory  
Jocelyn G. Boyd, Deputy Clerk  
\*Docketing  
dms.psc.sc.gov



February 10, 2006



Mrs. Beatrice E. Weaver  
1253 Harllees Bridge Road  
Dillon, SC 29436

RE: Docket No. 2004-219-E

2/15/06  
tod

Dear Mrs. Weaver:

Thank you for your letters of January 17 and 18, 2006. Regarding your request concerning formal and informal complaints filed against Progress Energy since December 31, 2001, there has been one formal complaint filed against Progress Energy Carolinas, Inc. ("PEC") in South Carolina during that period aside from those filed by you or your husband. It was a residential complaint regarding service reliability, and the complainant did not respond to PEC's formal answer. PEC is unaware of any informal complaints having been submitted to the Commission during this timeframe. With regard to the State of Florida, an affiliate of PEC, Progress Energy Florida, Inc. ("PEF") serves a portion of the State of Florida. PEC is not in possession of any information regarding complaints filed against PEF, and in any event, such information is irrelevant to the proceeding pending before the Public Service Commission of South Carolina. With regard to complaints filed against PEC in North Carolina, that is a separate jurisdiction and again has no relevance to the complaint proceeding in which you are a party.

Turning to your request for an affidavit from me concerning PEC's letters dated December 6, 2005 and January 9, 2006, I believe a more constructive process would be for you to identify those statements in my letters that you believe are inaccurate and provide me the documentation supporting your belief.

Yours very truly,

Len S. Anthony  
Deputy General Counsel-Regulatory Affairs

LSA:mhm

cc: Mr. Charles Terreni (SCPSC)

230915

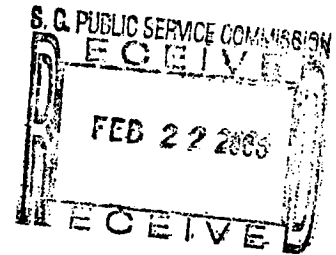
Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602

RECEIVED  
FEB 14 2006  
PSC SC  
DOCKETING DEPT.





February 16, 2006



Mrs. Beatrice E. Weaver  
1253 Harllees Bridge Road  
Dillon, SC 29436

RE: Docket No. 2004-219-E

Dear Mrs. Weaver:

Your February 11, 2006 letter to Chad Campbell at the Office of Regulatory Staff contained copies of two letters from you to me dated January 16 and January 19, 2006. Please be advised that I have never received those letters, and was unaware of them until reviewing your letter to Mr. Campbell. Let me respond to these letters individually.

On January 16, 2006 you asked that I provide you with information concerning the \$5,314.34 outstanding debt for unpaid electric service bills at your house, and your obligation to pay this debt. Following is my response to questions #1-5. You asked me to provide:

1. A detailed list of the respective accounts comprising this alleged amount.  
*Answer: Account Number 116-331-1887*
2. A break-down of said amount by each account name and number.  
*Answer: The entire amount is attributable to the above account*
3. The amount allegedly owed by date, for each account.  
*Answer: \$5,314.34 was the outstanding balance on Account Number 116-331-1887 as of January 11, 2002.*
4. The dates showing the duration of each account  
*Answer: Account Number 116-331-1887 was connected June 6, 1994 and disconnected December 21, 2001*
5. Show all alleged interest on each account  
*Answer: There is no interest*

The answers to your questions #6-10 are found in my letter to Mr. Daniel H. Shine, your attorney, dated April 28, 2004, copy attached. I would note further that the above debt was litigated before the Public Service Commission of South Carolina in Docket No. 2001-249-E. The Commission's final order in that case dated December 5, 2001 upheld the amount of the debt and PEC's right to disconnect service if the debt was not paid. An appeal of that ruling was dismissed in the Dillon County Court of Common Pleas on April 15, 2002 (Case #2002-CP-17-00090).

Your January 19, 2006 letter asks me to "Please state for the record, with specificity and particularity, exactly what conditions you claim have changed, in what

Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602

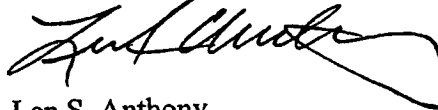
February 16, 2006

period of time, that caused you to formally withdraw the said unwarranted Petition to Terminate Service that was incorrectly filed in the first place." The answer to this is contained in my letter to The Hon. Charles Terreni dated October 13, 2005, with copy to you. A copy of that letter is attached hereto.

In your January 16 and 19 letters you again ask me to file affidavits concerning my responses to your questions in the above two letters. As I stated in my February 10, 2006 letter to you, I believe that a more constructive process would be for you to identify those statements in my letters that you believe are inaccurate and provide me the documentation supporting your belief.

Finally, let me say that PEC has provided you with all of the above information in one form or another on numerous occasions over the past three and a half years. In addition to the letters attached hereto, I direct your attention particularly to letters from PEC dated August 22, 2002; October 16, 2002; June 29, 2004; July 20, 2004; August 26, 2004; September 2, 2004; September 16, 2004; September 30, 2004; August 4, 2005; December 6, 2005; and January 9, 2006.

Yours very truly,



Len S. Anthony  
Deputy General Counsel-Regulatory Affairs

Attachments

LSA:gac

cc: Mr. Charles Terreni (SCPSC)

231234



October 13, 2005

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Petition of Progress Energy Carolinas, Inc. to Terminate Service  
Docket No. 2004-219-E

Dear Sirs:

On August 4, 2004, Progress Energy Carolinas, Inc. (PEC) filed the above-cited Petition to terminate electric service to the property of Mrs. Beatrice Weaver and/or Renaissance International, Inc. located at 1253 Harllees Bridge Road, Little Rock, South Carolina. PEC hereby requests to withdraw that Petition.

PEC's Petition was motivated by the multitude of problems PEC had been experiencing for several years up until that point in its customer/supplier relationship with Mrs. Weaver. The situation has improved dramatically in the intervening fourteen months. PEC has had few problems gaining access to the property to read meters since that time. During 2005 PEC has had to estimate only three readings, one in April, the other two in August and September after vegetation had grown to a point that meter readers were unable to safely enter the property through the rear gate, where PEC maintains a padlock. PEC wrote Mrs. Weaver a letter on August 3 requesting that she cut the vegetation, and apparently she did so, as meter readers were able to gain access to the property and read the meters on October 6. In short the problems that motivated PEC to file this Petition in August 2004 are no longer an issue. PEC appreciates the assistance of the South Carolina Office of Regulatory Staff (ORS) and the cooperation demonstrated by Mr. and Mrs. Weaver during this time, and is hopeful of maintaining continued amicable relations with this customer into the future.

The Commission issued an Order on October 5, 2005 setting a hearing on the above-referenced Petition for December 14, 2005. In light of its withdrawal of that Petition, PEC respectfully requests that the Commission cancel the hearing, which is no longer necessary.

Sincerely,

A handwritten signature in cursive script that reads 'Len S. Anthony'. Below the signature, the initials 'GAC' are written in a smaller, simpler script.

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA: mhm

cc: David Butler  
Randy Watts (ORS)  
April Sharpe (ORS)  
Florence Belser (ORS)  
Beatrice Weaver

228134

Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602



April 28, 2004

Mr. Daniel H. Shine  
911 West Hampton Street  
Dillon, South Carolina 29536

RE: Application for Service

Dear Dan:

I am responding to your April 14, 2004 letter concerning Beatrice E. Wallenstein's (a/k/a Mrs. Gary Weaver) request for electrical service to 1253 Harllees Bridge Road in Little Rock, South Carolina. I am returning the \$100.00 check from Be My Guest Wellness Retreat for deposit to establish electric service. Progress Energy Carolinas, Inc. (PEC) stands by its previous refusal to connect service to the main house at 1253 Harllees Bridge Road until the Weavers' \$5,314.34 in unpaid electric bills at this location is paid.

You state that for some years Mrs. Weaver has been caught in the middle of a dispute between Progress Energy and her husband Gary Weaver. This is an incorrect characterization. First, there is no dispute in the eyes of PEC or the South Carolina Public Service Commission or the courts, only a refusal by Mr. and Mrs. Weaver to pay back bills that they owe PEC. The Public Service Commission has ruled that the debt is owed to PEC. Secondly, this "dispute" is not simply between Gary Weaver and PEC, nor is Mrs. Weaver innocently caught in the middle. The fact is that Mr. and Mrs. Weaver, regardless of their present alleged living arrangements, are both inextricably tied to this debt, as you will see.

A review of pertinent public records indicates that a corporation named Renaissance International, Inc. owned by Mrs. Weaver bought the house in question in June 1994. The house is an 8,000 square foot plantation home on 9.4 acres of land. The purchase price of \$185,000 was paid in cash. In addition, the corporation bought a 206-acre tract of land on Harllees Bridge Road for \$135,000. Less than two years later the corporation, which by then was in forfeiture, sold the house and associated property to Mrs. Weaver for \$666,000. Mrs. Weaver secured a \$375,000 mortgage on the property. Our research shows that on December 31, 2003, the house and property were deeded to a living trust, of which Mrs. Weaver is the trustee/trustor.

South Carolina Public Service Commission rules pertinent to this case provide that the responsibility for a debt for unpaid electric bills is in effect shared by the members of the household who benefited from the service when and where the debt was incurred, and that in the

event that one of those members of the household subsequently attempts to establish service at the same location, the utility can refuse to connect service until the debt is paid. That concept is even more clear-cut when the only two members of the household are, as in this case, husband and wife.

The validity of both this interpretation and the rationale for this interpretation were directly addressed in the case of Haynsworth v. SCE&G, 488 F.Supp. 565 (USDC, SC, 1979). In this case electric service was in the husband's name, the couple separated, and the wife subsequently refused to pay the bill, claiming, just as Mrs. Weaver is now claiming, that the debt was the husband's responsibility as long as the account was in his name. The wife then applied for service in her own name at the same address. SCE&G refused to open an account in her name, relying on provision 4(b) of SCE&G's filed service regulations which reads: "Service will not be supplied by the Company to any applicant who is then indebted to the Company or who, at the time of application, is a member of the household of a former customer who is indebted to the Company, except upon payment of such indebtedness." Note the similarity to the relevant provision 2(c) in PEC's filed Service Regulations, which reads: "Company may refuse to furnish electric service to any Applicant, or Customer, who at the time is indebted to Company for electric service previously supplied to such Applicant or Customer, or any other member of his household, or business, in any area served by Company." (In the case of Clarke v. General Telephone Company, 232 S.E.2d 26 (1977), the South Carolina Supreme Court held that a utility's service regulations have the force and effect of law.)

The court upheld the service regulation as "necessitated by the nature of defendant's business":

This Court will not sanction a holding that would require defendant to continue service to a dwelling, even though the present account has a large overdue balance, just because a request is made by another member of that dwelling to put the account in his or her name. Such a holding would render the defendant powerless to collect its due and bind it into providing continuous utilities service without compensation, other than the minimal deposit made by the new applicant. If this Court were to rule as plaintiff urges and strike down defendant's section 4(b), every member of every household would be permitted to take a swing at the power company, amassing a substantial bill at the price of a small deposit. ...

Plaintiff asks the Court to disregard totally the most important fact of this lawsuit. That fact is that she and other applicants in her position have, at the time of application, received [\*\*11] the benefit of defendant's services without compensation to the defendant. If this Court were to find defendant's section 4(b) unlawful, defendant would be left with little hope of resolving [\*569] its outstanding accounts out of court. No longer could it use the denial of future service to those who apply and who are indebted to the defendant for past consumption as a means of insuring payment of its accounts. Defendant would have no recourse for collection except the courts, because the threat of termination would become meaningless...

The provision of defendant's General Terms and Conditions that plaintiff seeks to have set aside expressly enacts the following regulation of the state's Public Service Commission:

No electrical utility shall be required to furnish its service or continue its service to any applicant who, at the time of such application, is indebted, or any member of his household is indebted, under an undisputed bill to such electrical utility for service, previously furnished such applicant, or furnished any other member of the applicant's household or business. R103-342(k) S.C. Code (1976).

It is undisputed that the plaintiff resided in her Springlake Road home and used defendant's services during her separation from her husband. When she requested the account to her home be put in her name in September, 1975, she was indebted to defendant, and the above regulation directed and fully warranted defendant's refusal to open a new account in her name.

The main question, then, is whether Mrs. Weaver was a member of the household during the period when the debt was incurred, and the information below leaves no doubt that not only was she a member of the household, but in fact it was *her household*:

- First, during the five-year period over which the debt was incurred (1996-2001) Mrs. Weaver owned the house and property, solely and outright. In fact, Mr. Weaver stated to the Public Service Commission in November 2001 that he owns no personal property at all; the couple's assets (at least as of then) were all in Mrs. Weaver's name.
- Second, not only was Mrs. Weaver a member of the household during that five-year period, she was for much of the time the sole occupant, and thus enjoyed 100% of the benefits of the electric service during the time the debt was incurred. Gary Weaver testified before the Public Service Commission that during those years his business dealings took him out of the country for months at a time and that Mrs. Weaver stayed home and took care of the house and property.
- Mrs. Weaver accepted the burden of paying the electric bills. During Mr. Weaver's overseas sojourns the electric bills came to the Harlees Bridge address. Although they were addressed to Mr. Weaver, Mrs. Weaver opened them and paid them, using funds drawn on the account of Renaissance International, Inc., either in the form of checks or by her authorizing PEC to draft Renaissance's bank account.
- Mrs. Weaver handled all matters related to the electric service account with PEC (then called Carolina Power & Light Company, or CP&L) during the period in question. Our records show that Mrs. Weaver called PEC some forty-five times during that period, for a multitude of reasons: to establish heat pump loans with CP&L, to lease surge suppression equipment from CP&L, to have CP&L install five area lights on her property, to negotiate equal payment plan billing, to dispute the amounts of numerous bills, to make payment arrangements to avoid disconnection, and so on.

In short, the account was for all intents and purposes Mrs. Weaver's. Given the fact that she had financial control of the household during that five-year period, and was clearly making the day-to-day decisions on when and whether to pay the electric bills, Mrs. Weaver appears to bear the main responsibility for allowing the account to fall into such arrears. This leads to the issue of Mrs. Weaver's "unclean hands." Under this principle of equity, Mrs. Weaver cannot enjoy the benefit of the electricity provided to her residence, participate in the incurrence of the debt and then attempt to avoid responsibility by asserting that it is her husband's debt.

April 28, 2004

In addition, South Carolina's common law doctrine of necessities has been broadened by case law over the years to allow for either spouse to be held responsible for debts for necessities incurred by the other. *Peebles v. Disher*, 310 S.E. (2d) 823 (S.C. App. 1983); *Lee v. Lee*, 237 S.C. 532, 118 S.E. (2d) 171 (1961); *Campbell v. Campbell*, 200 S.C. 67, 20 S.E. (2d) 237 (1942); *Hiott v. Contracting Services*, 276 S.C. 632, 281 S.E. (2d) 224 (1981). Thus, an additional basis for Mrs. Weaver's liability for the account is the fact that electricity is a necessity. She and her husband consumed this necessity and they both are responsible for payment for this necessity.

As you may know, after the Public Service Commission decided in PEC's favor in a protracted complaint proceeding brought by Gary Weaver, PEC disconnected service to the house in December 2001 for non-pay. It has remained off ever since. Prior to her latest proposal to convert the house into a wellness retreat ("Be My Guest" LLC), Mrs. Weaver tried to get PEC to reconnect the service without paying the debt. In 2002, for instance, she founded a non-profit religious organization called St. Elizabeth of the Roses Benevolent Society, Inc., which was to be headquartered at the Harllees Bridge Road estate, and used a Ms. Dorothy Roscinsky, Corporate Treasurer of the society, to initiate contacts with PEC.

Finally, Mr. Weaver still maintains electric service in his name to an office/cottage behind the main house on the Harllees Bridge Road property, and whenever our meter readers and other personnel visit the property, he is typically there.

I am sending you this fairly lengthy but not exhaustive history of the electric service situation for Mrs. Weaver so that you will understand PEC's steadfast refusal to reconnect service to Mrs. Weaver's residence until this debt is paid and you will understand that there is no legal or equitable basis for Mrs. Weaver to institute litigation.

Sincerely,



Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: David Butler, SCPSC

Attachment

"BE MY GUEST" WELLNESS RETREAT  
RENAISSANCE ESTATE  
BEA WALLENSTEIN DIRECTOR  
1253 Harlees Bridge Rd - A  
Dillon, SC 29536

35.551

APRIL 11/04

67-778/532  
BRANCH 18183

Pay to the  
Order of

PROGRESS ENERGY

\$100.00

X ONE-HUNDRED X

Dollars



WACHOVIA  
Wachovia Bank, N.A.  
wachovia.com

For

DEPOSIT TO OPEN ACCT.

Bea Wallenstein

⑆053207766⑆1010025450365⑆055⑆





March 27, 2006

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Beatrice Weaver's Motion To Continue Date Of Hearing  
Docket No. 2004-219-E

Dear Mr. Terreni:

I note that the Public Service Commission of South Carolina ("the Commission") has set an agenda item for tomorrow's scheduled weekly agenda conference to consider the Motion To Continue Date of Hearing filed on March 13, 2006, by Mrs. Beatrice Weaver. The hearing is presently set for April 13, 2006.

Please be advised that Progress Energy Carolinas, Inc. ("PEC") is preparing to file a Motion that could potentially impact this docket and the need for a hearing in this matter, but is not prepared to do so until after a status conference scheduled for March 29, 2006 in the Dillon County Court of Common Pleas, Fourth Judicial Circuit in the matter of PEC's pending civil suit against Gary Weaver and Beatrice Weaver (Case Number 2004-CP-17-232).

For that reason, we would ask the Commission to consider carrying its March 28 agenda item over to the next scheduled session, by which time the Commission will have received PEC's Motion, which we plan to file on Thursday, March 30, 2006. If you have any questions or need any additional information, please call me at (919) 546-6367.

Sincerely,

A handwritten signature in cursive script that reads "Len S. Anthony". Below the signature, the initials "GAC" are written in a smaller, printed font.

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

c: Jocelyn Boyd  
Florence Belser  
Beatrice Weaver



178702  
SA.

March 30, 2006

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
Attention: Docketing Department  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

Enclosed for filing are an original and fifteen (15) copies of Progress Energy Carolinas, Inc.'s Motion to Close Docket in the above-referenced docket.

Sincerely,

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff  
Beatrice Weaver  
Mark Buyck, Esq.

RETURN DATE: N/A  
SERVICE: ok ted

**Boyd, Jocelyn**

---

**From:** WALSHCONSULTINGLLC@sc.rr.com

**Sent:** Friday, March 31, 2006 9:12 AM

**To:** Boyd, Jocelyn

**Subject:** Procedural Question

Jocelyn do you know if the Commission plans on taking up PEC's Motion To Close Docket in Docket No. 2004-219-E. Just wondering since the hearing in this Docket is currently schedule for April 13, 2006 and I am the witness for PEC.  
Thanks

4/28/2006

**Boyd, Jocelyn**

---

**From:** Cagle, Greg [greg.cagle@pgnmail.com]  
**Sent:** Tuesday, April 18, 2006 9:17 AM  
**To:** Boyd, Jocelyn  
**Cc:** WALSHCONSULTINGLLC@sc.rr.com; Anthony, Len  
**Subject:** Proposed Order in Docket No. 2004-219-E  
**Attachments:** Document.pdf

<<Document.pdf>>

Jocelyn, thanks for the call-back. Here is Progress's proposed order in the Weaver docket--hard copies are being overnighted to your office. Call me at (919) 546-6263 if you have any questions or need any additional info.

***Greg Cagle***

Regulatory Affairs

Mail Code CPB 17A4.

Caronet 770-6263, FAX 770-2694

greg.cagle@pgnmail.com

4/27/2006



April 18, 2006

Mr. Charles Terreni  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
Attention: Docketing Department  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

Enclosed for filing are an original and ten (10) copies of Progress Energy Carolinas, Inc.'s Proposed Order in the above-referenced docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Len S. Anthony".

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff  
Mrs. Beatrice Weaver

233252

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2004-219-E – ORDER NO. 2006-\_\_\_\_\_  
APRIL \_\_\_\_\_, 2006

IN RE: Carolina Power & Light Company d/b/a       )  
Progress Energy Carolinas, Inc. – Petition       )  
To Terminate Service                               )  
PROPOSED ORDER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion to Continue Date of Hearing and Extension of Time for Filing of Pleadings filed by Mrs. Beatrice Weaver (Respondent); and the Motion to Close Docket filed by Len S. Anthony, Esquire, on behalf of Progress Energy Carolinas, Inc. (PEC).

The above-referenced docket was established by the Commission on August 5, 2004, in response to PEC's filing on August 4, 2004 of a Petition to Terminate Service to Respondent's properties at 1253 Harlees Bridge Road, Little Rock, South Carolina.

On September 8, 2004, Respondent filed Respondent Beatrice Weaver's Answer to Petition; Counterclaim; Request for Formal Hearing; Affidavit of Beatrice Weaver; Exhibit A. In response to her request for a formal hearing in this matter, the Commission issued an order on September 29, 2004 scheduling hearing for December 9, 2004. Citing medical reasons, Respondent on November 24, 2004 moved for a three-month continuance of the hearing. The Commission, by Order dated December 3, 2004, granted her motion and rescheduled the hearing for March 10, 2005.

On February 8, 2005, Respondent again moved for a continuance based on medical grounds, this time asking the Commission "to set a date and time certain at least sixty (60) days following the end of May 2005." On March 14, 2005, the Commission issued an Order Granting Continuance, and stating that the hearing "shall be set for some appropriate time in June 2005." On June 7, 2005, Respondent wrote a letter to the Commission stating that she was convalescing in Yuma, Arizona, was scheduled for admittance to the Mayo Clinic from July through August, then would return to Duke University Medical Center through September, and thereafter would need time "to process the legal requirements for the preparation for the Hearing. Thus in view of my medical condition and schedule, may I propose that you set the Hearing Date during either the second part of November, or during the first part of December, 2005." The Commission duly scheduled the hearing for December 14, 2005.

By motion dated October 10, 2005, Mrs. Weaver asked that the December 14, 2005 hearing date be continued again and set for "a date and time certain on or about March 15, 2006."

On October 13, 2005, PEC wrote the Commission a letter asking to withdraw PEC's August 4, 2004 Petition, noting that during the intervening fourteen months many of the conditions that had prompted the original Petition had "improved dramatically," and that PEC no longer desired a hearing on this matter. The Commission issued an Order Granting Request to Withdraw Petition Without Prejudice on October 31, 2005. Respondent, however, informed the Commission of her intention to continue prosecuting her counterclaims against PEC. She subsequently wrote a letter to the Commission dated November 25, 2005, asking the Commission to order PEC to reconnect service to her

house (which has been disconnected since December 21, 2001 for non-payment of over \$5000 in electric bills) in her name without requiring payment of the outstanding debt. PEC filed a letter with the Commission on December 6, 2005, reiterating its position that the Respondent is responsible for the debt and that service to the house should not be connected in her name until the debt is paid.

On December 16, 2005, the Commission issued an Order Ruling on Various Requests and Establishing Hearing in this docket, stating in part that "Progress Energy also contested [Mrs. Weaver's] request to reenergize electric service at her house until the debt for unpaid electric bills at the premise is paid...As such, this request is a contested matter and should be scheduled for hearing at a time consistent with the Commission's current schedule." In this Order the Commission also sought to accommodate Respondent by offering to assist setting up a video conference hook-up to facilitate her participation in the hearing, an offer which Respondent subsequently rejected. The Commission duly scheduled the hearing for January 12, 2006. The Respondent, on January 10, 2006, again requested that the hearing be continued, citing health reasons. The Commission granted her request, rescheduling the hearing for April 13, 2006.

On February 8, 2006, Respondent again moved for a continuance, citing the anticipated absence of unnamed material witnesses for observances of Passover and/or Easter. In an Order entered February 27, 2006, the Commission denied Respondent's motion for continuance of the April 13, 2006 hearing. Respondent renewed her motion for continuance through several filings thereafter, again raising medical grounds for the request. In her March 10, 2006 Memorandum in Support of Motion to Continue Date of Hearing, Respondent revealed that, within days of filing her February 8, 2006 motion for



continuance, and with full knowledge that her hearing was scheduled for April 13, 2006, she voluntarily agreed to a date of April 12, 2006 for a surgical procedure that would make it impossible for her to attend the April 13 hearing or to comply with any other hearing date scheduled until after the end of May.

The Commission may, pursuant to S.C. Code Ann. Regs.103-862, grant or deny requests for continuances. The Commission has amply demonstrated its willingness to work with Respondent by granting four continuances at her request over a sixteen-month period. In an effort to further facilitate the process, the Commission offered to arrange video-conferencing that would have allowed Respondent to participate in the hearing without traveling to Columbia. Respondent's actions throughout this period, however, have made it apparent that she is either unwilling or unable to follow this matter to its conclusion. The Commission therefore denies her March 10, 2006 request for continuance. However, as further decided below, this issue is now moot, as the Commission grants PEC's Motion to Close Docket filed March 30, 2006.

PEC, on March 30, 2006, filed with the Commission a Motion to Close Docket, on the grounds that the Commission proceeding is duplicative of PEC's ongoing civil suit against the Respondent and her husband Gary Weaver in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232), PEC filed its civil suit on July 7, 2004, seeking recovery of the outstanding debt for unpaid electric service bills at Respondent's house. PEC subsequently (on October 26, 2004) filed a Motion for Summary Judgment in that proceeding regarding Mr. and Mrs. Weaver's mutual responsibility for the debt at issue. In an Order dated February 4, 2005, the court granted PEC's Motion for Summary Judgment with respect to Mr. Weaver, but denied the

Motion for Summary Judgment as to Mrs. Weaver, stating in part that "This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt..." The trial was scheduled for February 27, 2006, but was continued at the request of Mr. Weaver, who cited his wife's poor health and the fact that he "has been pre-occupied with attending her for treatment of said medical problems for the entire year of 2005 and to the present date, as required by the hospital." The court subsequently set a date certain for the trial to begin on October 30, 2006.

In a February 23, 2006 Motion in the civil case, Mr. Weaver stated that PEC "has not exhausted administrative relief in this matter, having placed *the same claims which are the subject of this action, before the PSC for decision*" (emphasis added). PEC argues that at their inception, the Commission proceeding and the civil case dealt with distinctly separate issues, but that as these proceedings have evolved over a two-year period, largely through the machinations of the Respondent and her husband, Respondent's responsibility for the outstanding debt on the electric service account for the house has become a central issue in both proceedings. PEC therefore moved the Commission to close Docket No. 2004-219-E on the grounds that the Commission proceeding in this docket duplicates the issue defined by the court in the civil case scheduled for trial in October 2006. That is, in both proceedings the central issue is whether Mrs. Weaver is responsible for the outstanding debt.

## ORDER

The Motion of Mrs. Beatrice Weaver to continue the April 13, 2006 hearing in Docket No. 2004-219-E is denied. PEC's Motion to Close Docket is granted. Pursuant to S.C. Code Ann. Regs.103-868, the matter is dismissed without prejudice.

BY ORDER OF THE COMMISSION:

**Randy Mitchell, Chairman**

**ATTEST:**

**G. O'Neal Hamilton, Vice Chairman**

(SEAL)

179010



April 18, 2006

FILED  
2006 APR 18 11:09:55  
SO. CAROLINA  
COLUMBIA

Mr. Charles Terreni  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
Attention: Docketing Department  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

Enclosed for filing are an original and ten (10) copies of Progress Energy Carolinas, Inc.'s Proposed Order in the above-referenced docket.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Len S. Anthony'.

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff  
Mrs. Beatrice Weaver

233252

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2004-219-E – ORDER NO. 2006-\_\_\_\_\_

APRIL \_\_\_\_\_, 2006

IN RE: Carolina Power & Light Company d/b/a )  
Progress Energy Carolinas, Inc. – Petition )  
To Terminate Service )

PROPOSED ORDER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion to Continue Date of Hearing and Extension of Time for Filing of Pleadings filed by Mrs. Beatrice Weaver (Respondent); and the Motion to Close Docket filed by Len S. Anthony, Esquire, on behalf of Progress Energy Carolinas, Inc. (PEC).

The above-referenced docket was established by the Commission on August 5, 2004, in response to PEC's filing on August 4, 2004 of a Petition to Terminate Service to Respondent's properties at 1253 Harllees Bridge Road, Little Rock, South Carolina.

On September 8, 2004, Respondent filed Respondent Beatrice Weaver's Answer to Petition; Counterclaim; Request for Formal Hearing; Affidavit of Beatrice Weaver; Exhibit A. In response to her request for a formal hearing in this matter, the Commission issued an order on September 29, 2004 scheduling hearing for December 9, 2004. Citing medical reasons, Respondent on November 24, 2004 moved for a three-month continuance of the hearing. The Commission, by Order dated December 3, 2004, granted her motion and rescheduled the hearing for March 10, 2005.

On February 8, 2005, Respondent again moved for a continuance based on medical grounds, this time asking the Commission "to set a date and time certain at least sixty (60) days following the end of May 2005." On March 14, 2005, the Commission issued an Order Granting Continuance, and stating that the hearing "shall be set for some appropriate time in June 2005." On June 7, 2005, Respondent wrote a letter to the Commission stating that she was convalescing in Yuma, Arizona, was scheduled for admittance to the Mayo Clinic from July through August, then would return to Duke University Medical Center through September, and thereafter would need time "to process the legal requirements for the preparation for the Hearing. Thus in view of my medical condition and schedule, may I propose that you set the Hearing Date during either the second part of November, or during the first part of December, 2005." The Commission duly scheduled the hearing for December 14, 2005.

By motion dated October 10, 2005, Mrs. Weaver asked that the December 14, 2005 hearing date be continued again and set for "a date and time certain on or about March 15, 2006."

On October 13, 2005, PEC wrote the Commission a letter asking to withdraw PEC's August 4, 2004 Petition, noting that during the intervening fourteen months many of the conditions that had prompted the original Petition had "improved dramatically," and that PEC no longer desired a hearing on this matter. The Commission issued an Order Granting Request to Withdraw Petition Without Prejudice on October 31, 2005. Respondent, however, informed the Commission of her intention to continue prosecuting her counterclaims against PEC. She subsequently wrote a letter to the Commission dated November 25, 2005, asking the Commission to order PEC to reconnect service to her

house (which has been disconnected since December 21, 2001 for non-payment of over \$5000 in electric bills) in her name without requiring payment of the outstanding debt. PEC filed a letter with the Commission on December 6, 2005, reiterating its position that the Respondent is responsible for the debt and that service to the house should not be connected in her name until the debt is paid.

On December 16, 2005, the Commission issued an Order Ruling on Various Requests and Establishing Hearing in this docket, stating in part that "Progress Energy also contested [Mrs. Weaver's] request to reenergize electric service at her house until the debt for unpaid electric bills at the premise is paid...As such, this request is a contested matter and should be scheduled for hearing at a time consistent with the Commission's current schedule." In this Order the Commission also sought to accommodate Respondent by offering to assist setting up a video conference hook-up to facilitate her participation in the hearing, an offer which Respondent subsequently rejected. The Commission duly scheduled the hearing for January 12, 2006. The Respondent, on January 10, 2006, again requested that the hearing be continued, citing health reasons. The Commission granted her request, rescheduling the hearing for April 13, 2006.

On February 8, 2006, Respondent again moved for a continuance, citing the anticipated absence of unnamed material witnesses for observances of Passover and/or Easter. In an Order entered February 27, 2006, the Commission denied Respondent's motion for continuance of the April 13, 2006 hearing. Respondent renewed her motion for continuance through several filings thereafter, again raising medical grounds for the request. In her March 10, 2006 Memorandum in Support of Motion to Continue Date of Hearing, Respondent revealed that, within days of filing her February 8, 2006 motion for

continuance, and with full knowledge that her hearing was scheduled for April 13, 2006, she voluntarily agreed to a date of April 12, 2006 for a surgical procedure that would make it impossible for her to attend the April 13 hearing or to comply with any other hearing date scheduled until after the end of May.

The Commission may, pursuant to S.C. Code Ann. Regs.103-862, grant or deny requests for continuances. The Commission has amply demonstrated its willingness to work with Respondent by granting four continuances at her request over a sixteen-month period. In an effort to further facilitate the process, the Commission offered to arrange video-conferencing that would have allowed Respondent to participate in the hearing without traveling to Columbia. Respondent's actions throughout this period, however, have made it apparent that she is either unwilling or unable to follow this matter to its conclusion. The Commission therefore denies her March 10, 2006 request for continuance. However, as further decided below, this issue is now moot, as the Commission grants PEC's Motion to Close Docket filed March 30, 2006.

PEC, on March 30, 2006, filed with the Commission a Motion to Close Docket, on the grounds that the Commission proceeding is duplicative of PEC's ongoing civil suit against the Respondent and her husband Gary Weaver in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232), PEC filed its civil suit on July 7, 2004, seeking recovery of the outstanding debt for unpaid electric service bills at Respondent's house. PEC subsequently (on October 26, 2004) filed a Motion for Summary Judgment in that proceeding regarding Mr. and Mrs. Weaver's mutual responsibility for the debt at issue. In an Order dated February 4, 2005, the court granted PEC's Motion for Summary Judgment with respect to Mr. Weaver, but denied the



Motion for Summary Judgment as to Mrs. Weaver, stating in part that “This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt...” The trial was scheduled for February 27, 2006, but was continued at the request of Mr. Weaver, who cited his wife’s poor health and the fact that he “has been pre-occupied with attending her for treatment of said medical problems for the entire year of 2005 and to the present date, as required by the hospital.” The court subsequently set a date certain for the trial to begin on October 30, 2006.

In a February 23, 2006 Motion in the civil case, Mr. Weaver stated that PEC “has not exhausted administrative relief in this matter, having placed *the same claims which are the subject of this action, before the PSC for decision*” (emphasis added). PEC argues that at their inception, the Commission proceeding and the civil case dealt with distinctly separate issues, but that as these proceedings have evolved over a two-year period, largely through the machinations of the Respondent and her husband, Respondent’s responsibility for the outstanding debt on the electric service account for the house has become a central issue in both proceedings. PEC therefore moved the Commission to close Docket No. 2004-219-E on the grounds that the Commission proceeding in this docket duplicates the issue defined by the court in the civil case scheduled for trial in October 2006. That is, in both proceedings the central issue is whether Mrs. Weaver is responsible for the outstanding debt.

**ORDER**

The Motion of Mrs. Beatrice Weaver to continue the April 13, 2006 hearing in Docket No. 2004-219-E is denied. PEC's Motion to Close Docket is granted. Pursuant to S.C. Code Ann. Regs.103-868, the matter is dismissed without prejudice.

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

\_\_\_\_\_  
G. O'Neal Hamilton, Vice Chairman

(SEAL)



April 26, 2006

179227  
RECEIVED  
2006 APR 28 AM 10:07  
COMMUNICATIONS SECTION

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Beatrice Weaver's Motions Dated April 11, 2006  
Docket No. 2004-219-E

Dear Mr. Terreni:

I am writing in response to two motions filed on April 11, 2006, by Mrs. Beatrice Weaver in the above docket. Both of these motions essentially object to the unanimous decision on April 4, 2006 by the Public Service Commission of South Carolina ("the Commission") to deny Mrs. Weaver's renewed request to continue the hearing scheduled for April 13, 2006, and to dismiss this matter without prejudice. They also state numerous grounds for reconsideration and rescission.

The Commission's decision has an ample basis in law and fact, and the Commission acted appropriately to bring this protracted matter to an end. In addition to the reasons cited by the Commission in its April 4, 2006 Directive, Progress Energy Carolinas, Inc. ("PEC") would point out that the matter Mrs. Weaver continues to attempt to bring before the Commission, namely whether or not she should be required to pay the more than \$5000 in unpaid electric bills at her home as a prerequisite to establishing electric service in her name, is already before the courts, and is scheduled for trial on October 30, 2006 in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232). The duplication of issues in these two proceedings has been noted not only by PEC but by Mrs. Weaver's husband Gary Weaver in his February 23, 2006 Motion For Continuance of Trial in the court proceeding.

For these reasons, PEC asks that the Commission issue an order dismissing Mrs. Weaver's pending motions and closing the above docket.

Sincerely,

A handwritten signature in black ink, appearing to read 'Len S. Anthony', written over a horizontal line.

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Jocelyn Boyd  
Florence Belser  
Beatrice Weaver

Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602

**Boyd, Jocelyn**

---

**From:** Cagle, Greg [greg.cagle@pgnmail.com]  
**Sent:** Thursday, April 27, 2006 9:32 AM  
**To:** Boyd, Jocelyn; Terreni, Charles; fbelsa@regstaff.sc.gov.; shudson@regstaff.sc.gov  
**Cc:** WALSHCONSULTINGLLC@sc.rr.com; Anthony, Len  
**Subject:** Beatrice Weaver  
**Attachments:** Document.pdf

<<Document.pdf>>

FYI the attached file is a letter being overnighted to the SCPSC and ORS, and sent by U.S. Mail to Beatrice Weaver.

***Greg Cagle***

Regulatory Affairs

Mail Code CPB 17A4.

Caronet 770-6263, FAX 770-2694

greg.cagle@pgnmail.com

4/27/2006



April 26, 2006

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Beatrice Weaver's Motions Dated April 11, 2006  
Docket No. 2004-219-E

Dear Mr. Terreni:

I am writing in response to two motions filed on April 11, 2006, by Mrs. Beatrice Weaver in the above docket. Both of these motions essentially object to the unanimous decision on April 4, 2006 by the Public Service Commission of South Carolina ("the Commission") to deny Mrs. Weaver's renewed request to continue the hearing scheduled for April 13, 2006, and to dismiss this matter without prejudice. They also state numerous grounds for reconsideration and rescission.

The Commission's decision has an ample basis in law and fact, and the Commission acted appropriately to bring this protracted matter to an end. In addition to the reasons cited by the Commission in its April 4, 2006 Directive, Progress Energy Carolinas, Inc. ("PEC") would point out that the matter Mrs. Weaver continues to attempt to bring before the Commission, namely whether or not she should be required to pay the more than \$5000 in unpaid electric bills at her home as a prerequisite to establishing electric service in her name, is already before the courts, and is scheduled for trial on October 30, 2006 in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232). The duplication of issues in these two proceedings has been noted not only by PEC but by Mrs. Weaver's husband Gary Weaver in his February 23, 2006 Motion For Continuance of Trial in the court proceeding.

For these reasons, PEC asks that the Commission issue an order dismissing Mrs. Weaver's pending motions and closing the above docket.

Sincerely,

A handwritten signature in black ink, appearing to read 'Len S. Anthony', written over a horizontal line.

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Jocelyn Boyd  
Florence Belser  
Beatrice Weaver

Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602



March 27, 2006

RECEIVED

MAR 28 2006

PSC SC  
DOCKETING DEPT.

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Beatrice Weaver's Motion To Continue Date Of Hearing  
Docket No. 2004-219-E

Dear Mr. Terreni:

I note that the Public Service Commission of South Carolina ("the Commission") has set an agenda item for tomorrow's scheduled weekly agenda conference to consider the Motion To Continue Date of Hearing filed on March 13, 2006, by Mrs. Beatrice Weaver. The hearing is presently set for April 13, 2006.

Please be advised that Progress Energy Carolinas, Inc. ("PEC") is preparing to file a Motion that could potentially impact this docket and the need for a hearing in this matter, but is not prepared to do so until after a status conference scheduled for March 29, 2006 in the Dillon County Court of Common Pleas, Fourth Judicial Circuit in the matter of PEC's pending civil suit against Gary Weaver and Beatrice Weaver (Case Number 2004-CP-17-232).

For that reason, we would ask the Commission to consider carrying its March 28 agenda item over to the next scheduled session, by which time the Commission will have received PEC's Motion, which we plan to file on Thursday, March 30, 2006. If you have any questions or need any additional information, please call me at (919) 546-6367.

Sincerely,

Len S. Anthony  
Deputy General Counsel - Regulatory Affairs

LSA:gac

c: Jocelyn Boyd  
Florence Belser  
Beatrice Weaver

I hereby certify this document to be a true copy of the original.

  
Chief Clerk

Date 4-28-2006

C. DUKES SCOTT  
EXECUTIVE DIRECTOR

PO BOX 1763  
COLUMBIA, SC 29210



Phone: 803/735-0700  
Fax: 803/735-0700

DAN FARNELL  
CHIEF OF STAFF

178711

March 31, 2006

shudson@regstaff.sc.gov

**VIA E-FILING AND HAND DELIVERY**

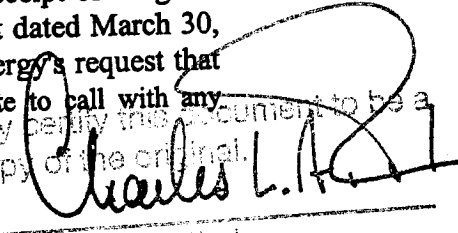
Charles L.A. Terreni, Esquire  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

RECEIVED  
2006 MAR 31 PM 4:39  
SC PUBLIC SERVICE  
COMMISSION

Re: Progress Energy Service Company, LLC - Petition of Progress Energy  
Carolinas, Inc. To Terminate Service  
Docket No. 2004-219-E

Dear Mr. Terreni:

The South Carolina Office of Regulatory Staff ("ORS") is in receipt of Progress Energy Carolinas Inc.'s ("Progress Energy's") Motion to Close Docket dated March 30, 2006. Upon review of the Motion, ORS does not oppose Progress Energy's request that the Commission close Docket No. 2004-219-E. Please do not hesitate to call with any questions you may have.

I hereby certify this document to be a true copy of the original.  
  
Chief Clerk

With best regards,



Date 4-28-2006

Shannon Bowyer Hudson

cc: Mrs. Beatrice Weaver  
Mr. Gary Weaver  
Len S. Anthony, Esquire

This Document Is An Exact Duplicate, With The Exception Of  
The Form Of The Signature, Of The E-Filed Copy Submitted  
To The Commission In Accordance With Its Electronic Filing  
Instructions



178702  
SA.

March 30, 2006

The Honorable Charles Terreni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
Attention: Docketing Department  
P. O. Drawer 11649  
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

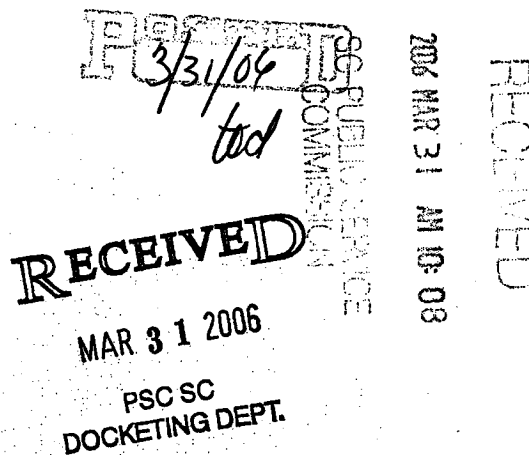
Enclosed for filing are an original and fifteen (15) copies of Progress Energy Carolinas, Inc.'s Motion to Close Docket in the above-referenced docket.

Sincerely,

Len S. Anthony  
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff  
Beatrice Weaver  
Mark Buyck, Esq.



RETURN DATE: N/A  
SERVICE: ok ted

I hereby certify this document to be a true copy of the original.

Chief Clerk

Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602

Date 4-28-2006



**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

March 30, 2006

RECEIVED  
2006 MAR 31 AM 10:08  
SOUTH CAROLINA  
PUBLIC SERVICE  
COMMISSION

In the Matter of	)	
	)	
Petition of Progress Energy Carolinas, Inc.	)	<b>MOTION TO CLOSE DOCKET</b>
To Terminate Service	)	
	)	
	)	

1. The above-referenced docket was established by the Public Service Commission of South Carolina ("the Commission") on August 5, 2004, in response to Progress Energy Carolinas, Inc.'s ("PEC") filing on August 4, 2004 of a Petition to Terminate Service to Mrs. Beatrice Weaver's ("Respondent") properties at 1253 Harllees Bridge Road, Little Rock, South Carolina.

2. On October 13, 2005, PEC wrote the Commission a letter asking to withdraw the August 4, 2004 Petition, noting that during the intervening fourteen months (during which the Commission had scheduled hearings for December 9, 2004; March 10, 2005; and December 14, 2005, all of which were ultimately continued at the Respondent's request, citing health reasons) many of the conditions that had prompted the original Petition had "improved dramatically," and that PEC no longer desired a hearing on this matter. The Commission issued an Order Granting Request to Withdraw Petition Without Prejudice on October 31, 2005.

3. The Respondent subsequently wrote a letter to the Commission dated November 25, 2005, asking the Commission to order PEC to reconnect service to her house (which has been disconnected since December 21, 2001 for non-payment of over \$5000 in electric bills) in her

name without requiring payment of the outstanding debt. PEC filed a letter with the Commission on December 6, 2005, reiterating its position that the Respondent is responsible for the debt and that service to the house should not be connected in her name until the debt is paid.

4. On December 16, 2005, the Commission issued an Order Ruling on Various Requests and Establishing Hearing in this docket, stating in part that "Progress Energy also contested [Mrs. Weaver's] request to reenergize electric service at her house until the debt for unpaid electric bills at the premise is paid...As such, this request is a contested matter and should be scheduled for hearing at a time consistent with the Commission's current schedule." The Commission duly scheduled the hearing for January 12, 2006. The Respondent again cited health reasons as justification for continuing the hearing. The Commission granted her request, rescheduling the hearing for April 13, 2006. The Commission denied the Respondent's subsequent request that the hearing be rescheduled yet again on the grounds of its proximity to Easter. The Respondent then filed a second request for continuance on the grounds that she was scheduled to have eye surgery on April 12, 2006.

5. On July 7, 2004, PEC filed suit against the Respondent and her husband Gary Weaver in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232), seeking recovery of the outstanding debt discussed above. PEC subsequently (on October 26, 2004) filed a Motion for Summary Judgment in this proceeding regarding Mr. and Mrs. Weaver's mutual responsibility for the debt at issue. In an Order dated February 4, 2005 (copy attached as Exhibit 1), the court granted PEC's Motion for Summary Judgment with respect to Mr. Weaver, but denied the Motion for Summary Judgment as to Mrs. Weaver, stating in part that "This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt..." The trial was scheduled for February 27, 2006, but was later continued

at the request of Mr. Weaver, who cited his wife's poor health and the fact that he "has been pre-occupied with attending her for treatment of said medical problems for the entire year of 2005 and to the present date, as required by the hospital." The court subsequently set a date certain for the trial to begin on October 30, 2006.

6. In a February 23, 2006 Motion in the civil case (copy attached as Exhibit 2), Mr. Weaver stated that PEC "has not exhausted administrative relief in this matter, having placed the same claims which are the subject of this action, before the PSC for decision. Plaintiff has engaged in redundant duplication of claims by submitting the same claims presently before this Honorable Court in its pleadings with the State's regulatory agency." In fact, PEC's claims in these two proceedings were unrelated. PEC's August 4, 2004 Petition to the Commission that opened this docket sought to disconnect service to the Respondent's two active accounts on grounds unrelated to the outstanding debt or to the Respondent's responsibility for the debt. PEC's civil lawsuit, on the other hand, dealt exclusively with collection of the debt and with Mr. and Mrs. Weaver's mutual and individual responsibility for that debt.

7. However, the civil court's January 4, 2005 ruling (Exhibit 1) and the Commission's December 16, 2005 order in this docket have redefined the original subject matter of these two proceedings so as to render them duplicative in the sense that both proceedings now seek to establish whether or not Mrs. Weaver may be held responsible for the debt incurred at her house while the electric service account was in her husband's name, and thus whether or not PEC may require payment of the debt as a condition of connecting service to her house in her name.

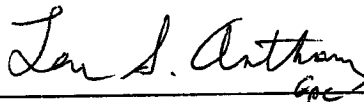
8. PEC believes that ample grounds exist for the Commission to close Docket No. 2004-219-E:

- A. The issue set for hearing in this docket duplicates the issue defined by the court in the civil case scheduled for trial in October 2006.
- B. The numerous health-related continuances in both of these proceedings underscore the fact that, as Mr. Weaver stated in his February 23, 2006 Motion for Continuance of Trial Scheduled For February 27, 2006 (Exhibit 2), "Defendant Beatrice Weaver is not physically nor medically able to participate in a trial at this time," and "Defendant cannot physically prosecute two actions simultaneously, relating to the same issues before two jurisdictions, particularly given the medical reasons filed previously with this Court."

WHEREFORE, PEC requests that the Commission grant PEC's Motion to Close Docket.

Respectfully submitted this the 30<sup>th</sup> day of March, 2006.

PROGRESS ENERGY CAROLINAS, INC.



Len S. Anthony  
Deputy General Counsel - Regulatory Affairs  
Progress Energy Service Co., LLC  
Post Office Box 1551  
Raleigh, North Carolina 27602-1551  
Telephone: (919) 546-6367  
Facsimile: (919) 546-2694  
E-mail: [Len.Anthony@pgnmail.com](mailto:Len.Anthony@pgnmail.com)  
Counsel for Progress Energy

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) FOURTH JUDICIAL CIRCUIT  
 COUNTY OF DILLON ) CASE NUMBER 2004-CP-17-00232

Progress Energy Service Company, LLC )

Plaintiff, )

vs. )

Gary Weaver and Beatrice Weaver, )

Defendants. )

ORDER

CLERK OF COURT  
DILLON COUNTY

FILED  
GWEN T. HYATT  
05 FEB -4 PM 4:28  
CLERK OF COURT  
DILLON COUNTY

A hearing on all pending Motions in this matter was heard by the undersigned in Dillon on January 7, 2005. The Plaintiff was represented by Mark W. Buyck, Jr. and Mark W. Buyck, III of the firm Willcox, Buyck and Williams. The Defendant Beatrice Weaver was represented by Dan Shine. The Defendant Gary Weaver appeared *Pro Se*. The pending Motions at the time of the hearing were a Motion to Dismiss with Prejudice and for Sanctions filed by the Defendant Gary Weaver on September 3, 2004; Plaintiff's Motion for Summary Judgment filed October 26, 2004; Defendant Gary Weaver's Motion to file an Amended Answer filed on December 2, 2004; and Defendant Gary Weaver's Motion to Compel filed December 2, 2004. During the hearing the Plaintiff moved pursuant to S.C.R.C.P. Rule 15(a) for an Order of Default against the Defendant Gary Weaver. The Motion for Default was accompanied by an Affidavit of Default.

A hearing on the Plaintiff's Motion for Summary Judgment was held on December 3, 2004. During the December 3 hearing the undersigned continued the Plaintiff's Motion with leave to amend the complaint and ordered that this action be set for a January 7, 2005 hearing. The Plaintiff filed an Amended Complaint and verified claim on or about December 7, 2004. The Defendant Gary Weaver did not timely respond to the Amended Complaint within the 15 days required under

S.C.R.C.P. Rule 15(a). The Defendant Gary Weaver filed an Answer to the Amended Complaint and several counterclaims with this Court on January 4, 2005.

During the instant hearing, the Plaintiff presented the Court with an Order entered by the Honorable James E. Brogdon, Jr., Judge of the Twelfth Judicial Circuit, in the case of *Gary Weaver vs. Carolina Power and Light Company (Progress Energy), John and Jane Does 1-20, Defendants*, Case Number 2004-CP-21-703 filed in the Florence County Court of Common Pleas. Judge Brogdon's Order was filed on December 20, 2004 and granted Progress Energy's Motion to Dismiss numerous tort claims alleged by Mr. Weaver on the grounds on res judicata, failure to exhaust administrative remedies, the filed rate doctrine and failure of Mr. Weaver to file his claims within the applicable statute of limitations. Judge Brogdon noted that there was a long standing dispute between Mr. Weaver and Progress Energy which included a formal complaint before the South Carolina Public Service Commission filed in 2001 which was ultimately dismissed in Progress Energy's favor. Mr. Weaver appealed the PSC dismissal to the Dillon County Court of Common Pleas in Case Number 2002-CP-17-090. On April 19, 2002 the Honorable Paul Michael Burch, Judge of the Fourth Judicial Circuit, issued an Order dismissing Weaver's Complaint and Appeal with prejudice. All of the matters which Mr. Weaver attempts to include in his counterclaim in the instant action stem from allegations in his earlier PSC Complaint, the appeal of the PSC decision, as well as the action dismissed by Judge Brogdon. These matters are barred by the doctrine of res judicata.

Based on the foregoing, Mr. Weaver's counterclaims are stricken and will not go forward in this action. During argument on January 7, 2005 Mr. Weaver explained the he was under the impression that his Answer to the Amended Complaint would only be due prior to the January 7, 2005 hearing. The Plaintiff's Motion for Default Judgment as to Mr. Weaver is denied.

The Plaintiff has moved for Summary Judgment as to both Mr. and Mrs. Weaver. The verified record of outstanding debt contained in the Plaintiff's Amended Complaint indicates that as of December 3, 2004 the unpaid balance on the account in dispute was \$7,528.28. During the pendency of the Complaint of *Gary Weaver vs. Carolina Power and Light Company*, South Carolina Public Service Commission Docket Number 2001-249-E, the Public Service Commission entered Order Number 2001-1095 dismissing Mr. Weaver's Complaint with prejudice. This is the same Order which Mr. Weaver appealed to the Dillon County Court of Common Pleas in Case Number 2002-CP-17-090 and which was ultimately dismissed with prejudice on April 19, 2002. This Order is the law of this case. The Public Service Commission determined that as of the date of its hearing on November 27, 2001 Mr. Weaver's account balance was \$4,625.89. The Court notes that the verified account also reflects an amount due of \$4,625.89 as of November 27, 2001. The account appears to have had various activity between the date of the Public Service Commission's Order of Dismissal and January 11, 2002 including an area light refund, a loan foreclosure, and several adjustments relating to Mr. Weaver's initial deposit.

#3  
JH  
During the hearing on this matter Mr. Weaver disputed the adjustment amount and claims he has never received a proper accounting of the area light service refund amounts. Based on the finding of the South Carolina Public Service Commission this Court determines that as of November 27, 2001 Mr. Weaver was indebted to the Plaintiff in the amount of \$4,625.89. The Court grants the Plaintiff partial Summary Judgment as to Mr. Weaver with regards to the debt. The Court is unwilling at this time to conclude as a matter of law the exact amount of the debt and hereby orders that the case will proceed as to Mr. Weaver to determine the amount of the debt.

The Plaintiffs have also moved for Summary Judgment as to the Defendant Beatrice Weaver. The Plaintiff's theory advanced in its Motion for Summary Judgment is the doctrine of necessities

and that as husband and wife Gary and Beatrice Weaver are responsible for one another's debt to the Plaintiff. The Court notes that Mrs. Weaver was not a party to the 2001 Public Service Commission Complaint or the 2002 Appeal. Mrs. Weaver was also not a party to the 2004 action recently dismissed by Judge Brogdon. The Court denies the Plaintiff's Motion for Summary Judgment as to Mrs. Weaver. This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt and the amount owed by her, if any.

In addition to the Plaintiff's Motion, the Defendant Gary Weaver has previously filed a Motion to Dismiss, a Motion for an Extension of Time and a Motion to Compel. All of these Motions are denied.

This dispute before this Court is a debt collection action. The parties have been given an opportunity to amend their pleadings pursuant to the Court's December 3, 2004 instructions. There will be no further amended pleadings allowed in this action. Discovery may proceed; however, all discovery must be limited to the issues of the amount of the debt and Mrs. Weaver's responsibility for any portion of the debt. In conclusion, therefore it is

ORDERED as follows:

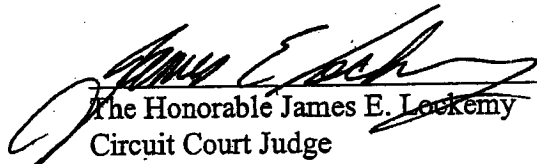
1. Plaintiff's Motion for Summary Judgment is denied as to Beatrice Weaver.
2. The Plaintiff's Motion for Summary Judgment is granted as to the existence of a debt between the Plaintiff and the Defendant Mr. Weaver.
3. The Plaintiff's Motion for Summary Judgment as to the amount of Mr. Weaver's debt is denied.
4. Mr. Weaver's Motion to Dismiss, Motion for Extension of Time, and Motion to Compel are denied.




5. The Plaintiff's Motion for Default as to Mr. Weaver is denied; however, Mr. Weaver's counterclaims are stricken.

6. This matter will proceed solely on the amount of the debt owed by Mr. Weaver and the responsibility for Mrs. Weaver for any portion of the debt.

7. Discovery will be limited to solely to the amount of the debt owed by Mr. Weaver and Mrs. Weaver's responsibility therefore.

  
The Honorable James E. Lockemy  
Circuit Court Judge

At Chambers  
January 4, 2005  


## EXHIBIT 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF DILLON	)	CASE NUMBER 2004-CP-17-232
Progress Energy Carolinas, Inc.,	)	MOTION FOR CONTINUANCE OF
	)	TRIAL SCHEDULED FOR FEBRUARY
Plaintiff,	)	27, 2006 (SCRCP 40(i); MEMORANDUM
	)	IN SUPPORT OF MOTION; AFFIDAVIT
vs.	)	OF GARY WEAVER; EXHIBITS A-B;
	)	NOTICE OF MOTION; CERTIFICATE
Gary Weaver and Beatrice Weaver.	)	OF SERVICE
	)	
	)	
	)	

**MOTION FOR CONTINUANCE OF TRIAL**  
**SCHEDULED FOR FEBRUARY 27, 2006**

Comes now Defendant Pro Se Gary Weaver ("Defendant"), and pursuant to Rule 6 (b) (d), Rule 7 (b), Rule 12, Rule 40 (i) (1) and (2) and Rule 40 (j) South Carolina Rules of Civil Procedure ("SCRCP"), hereby moves this Court, for good cause, for an order continuing the trial scheduled for February 27, 2006 and any extensions thereof, in this action. Pursuant to Rule 40 (i) (1) this Motion is timely filed.

This motion is based on the attached Memorandum in Support of Motion, the Affidavit of Gary Weaver, the Exhibits attached hereto, made part hereof, and the records and files herein, and such other and further oral and/or documentary evidence as may be presented.

This motion is filed supplementary to Defendant's Motion For Extension Of Time For Date Of Trial Scheduled For December 12, 2005, dated November 19, 2006, requesting a trial date "any time after March 31, 2006." A copy of this Motion is attached hereto as Exhibit A.

The Court having consented to that Motion, it came as a surprise to Defendant that the case was placed on the Jury Trial Roster on February 16, 2006 and set for trial on February 27, 2006, with just a few days notice to Defendant. The grounds for that motion are applicable to this motion as well, and by reference made part hereof.

The Court is respectfully requested to take judicial notice of Docket No. 2004-219-E, Progress Energy Carolinas, Inc vs. Beatrice and Gary Weaver, presently before the Public Service Commission of South Carolina ("PSC").

**Plaintiff has not exhausted administrative relief in this matter**, having placed the same claims which are the subject of this action, before the PSC for decision. Plaintiff has engaged in redundant duplication of claims by submitting the same claims presently before this Honorable Court in its pleadings with the State's regulatory agency. This redundancy is an economic and physical undue burden and hardship for Defendant, and creates unnecessary costs, and waste of the Court's and Counsels' time. Defendant cannot physically prosecute two actions simultaneously, relating to the same issues before two jurisdictions, particularly given the medical reasons filed previously with this Court.

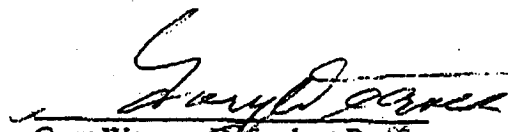
Defendant has not completed discovery for the reasons stated in the November 19, 2005 motion; Plaintiff has not responded to Defendant's Request for Production of Documents in this action and Defendant expects to file a Motion to Compel; Defendant expects **new evidence** to be forthcoming from further discovery in the aforesaid case before the PSC, which will have an impact on this action.

Finally, the main justification for this motion is the physical inability, unpredictability and the unavailability of the material witnesses (Defendants) who must be present for a safe and sufficient defense in this matter.

WHEREFORE, having fully set forth the grounds for the motion, Defendant respectfully moves this Honorable Court for an order for continuance of the subject trial at a date and time convenient to the Court and Counsel, any time after April 31, 2006. An appropriate alternative may be to approve an SCRCR Rule 40 (j) **Consent Motion to Dismiss With Leave to Restore** in the interests of judicial economy and court administrative efficiency, if the counsel agrees.

DATED: Florence County, S.C. February 23, 2006.

Respectfully submitted,

  
Gary Weaver, Defendant Pro Se